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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,248	01/23/2004	Kathleen M. Frigon	MFCP.110229	8055

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EXAMINER

BLACKWELL, JAMES H

ART UNIT	PAPER NUMBER
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2176

MAIL DATE	DELIVERY MODE
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09/05/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/764,248	Applicant(s) FRIGON ET AL.	
	Examiner James H. Blackwell	Art Unit 2176	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 and 34-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 and 34-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to an Amendment filed 06/25/2007.
2. The original priority date is **01/23/2004**.
3. Claims 1-32 and 34-39 remain pending. Claims 1, 20, and 34 are independent claims.

Response to Affidavit under 37 C.F.R. 1.131

4. The affidavit filed on 06/25/2007 under 37 CFR 1.131 has been considered but is ineffective to overcome the effective filing date of the Gargi reference (U.S. Patent Application Publication No. 2005/0027712 A1) for at least the following reasons.
5. Page 1 (of 14) of Applicant's affidavit purports actual reduction to practice prior to 07/29/2003 and has provided evidence to that fact in the form of a press release for Microsoft Digital Image Suite 9 product (Pages 4-7 of 14, "Exhibit A") which generally describes the product and new features in version 9. Additional evidence was provided in the form of a series of screen shots (Pages 9-14 of 14, "Exhibit B") showing a workspace with a navigation frame and at least one workspace frame displaying digital images.
6. However, it is the Examiner's opinion that Applicant has not demonstrated a mapping of all claimed limitations of the instant independent claims to the presented evidence. It is unclear to the Examiner where support lies in either Exhibits A or B for said limitations. In addition, the screen shots provided ("Exhibit B") are rather small

difficult to read or interpret (note: some resolution appears to have been lost in the faxing/scanning of the screen shots).

7. In view of the lack of any mapping of claim limitations to the evidence provided by the Applicant, it is the Examiner's opinion that the presented affidavit is insufficient proof that Applicant's invention was reduced to practice before 01/23/2004. Accordingly, said affidavit is ineffective to overcome the effective filing date of the Gargi reference at the present time (see also MPEP 8th Edition, Sec. 715.07).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2, 5-6, 20, 22, 34, and 36 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Edelman (U.S. Patent No. 5,680,563 filed 07/25/1994, issued 10/21/1997) in view of Bolnick et al. (hereinafter Bolnick, U.S. Patent No. 5,838,317 filed 06/30/1995, issued 11/17/1998), and in further view of Gargi et al. (hereinafter Gargi, U.S. Patent Application Publication No. 2005/0027712 A1 filed 07/31/2003, published 02/03/2005).

In regard to independent Claim 1 (and similarly independent Claims 20, and 34), Edelman discloses:

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- *a computer system for presenting a plurality of items to a user, the system comprising:
 - *one or more filters selectable by the user which may be applied to said plurality of items to select one or more filtered items each of said filters having an associated default grouping (see Figs. 2, 5-8 showing menus with filters for controlling what icons are displayed on the desktop display; Fig. 6 shows a submenu for Filters that shows the ways that the icons can be grouped and displayed on the desktop).**

It is also noted that Edelman discloses that the filtered out items are gathered into a bundle of unusable items and displayed in a group (Abstract).

Edelman fails to disclose:

- *an item grouping component configured to divide said one or more filtered items into a plurality of groups automatically in accordance with at least one default grouping associated with one of said one or more filters, wherein each of at least a portion of said plurality of groups include one or more group characteristics shared by the items in the group, wherein said item grouping component is further configured to utilize said one or more group characteristics to generate one or more group titles for at least a portion of said plurality of groups; and*

However, Bolnick discloses a desktop onto which a user can define a plurality of regions (frames) into which graphical representations of files, folders, applications (icons) will be automatically placed (grouped) upon a user dropping those icons (or presumably creating those icons as one would create a new file and then save it) into a

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given frame according to rules assigned to each of the frames as to what content should be placed into those frames. This automatic feature is switched on within the defined preferences assigned to a given frame via an Auto-Fetch field 122 which specifies whether the display arrange system will automatically place a displayed moveable graphical representation corresponding to a computer resource meeting the filter criterion for a frame within the border of the selected frame assuming all other conditions are met (i.e., empty cells exist, the frame has precedence over other frames having acceptable filter properties, etc.). When an object is dropped by a user onto the Desktop, precedence is first given to a frame that receives the drop, then from lowest to highest index value in all frames in which the Auto-Fetch field 122 has been set. The Auto-Arrange field 120 is automatically set for a frame when the Auto-Fetch field 254 is set for the frame. Therefore, local tidying is invoked whenever a new icon or minimized window is added to a frame via the auto-fetch automatic behavior for the frame. The Auto-Fetch automatic behavior is disabled in all frames where the Filtering field 68 specifies full query filtering (Col. 12, lines 29-46).

It is also noted that each of the graphical representations have associated with them a number of parameters describing such things as file size, type, etc.

Thus, Bolnick discloses an automatic grouping of objects (icons) on a display screen according to rules.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman and Bolnick as both inventions relate to layout

and grouping items on a display. Adding the disclosure of Bolnick provides the benefit of the grouping and display to be performed automatically and according to rules.

Both Edelman and Bolnick fail to disclose:

- *wherein said item grouping component is further configured to utilize said one or more group characteristics to generate one or more group titles for at least a portion of said plurality of groups;*

However, Gargi discloses (Pg. 6, Paragraph [0071]; Fig. 6; → Fig. 6 shows an embodiment of a method of organizing a collection of objects. Objects from the collection are segmented (step 230). Layout engine 164 extracts context-related meta data that is associated with the objects and is parsable into multiple levels of a name hierarchy (step 232). Segmenting objects is understood to mean “clustering” objects into clusters or groups/sub-groups.

Gargi further discloses (Pg. 6, Paragraphs [0074-0075]; Fig. 6; → after the context-related meta data has been extracted (step 232), names are assigned to clusters based on the extracted context-related meta data corresponding to a level of the name hierarchy selected to distinguish segmented clusters from one another (step 234). In one implementation, names are assigned to clusters based on extracted context-related meta data corresponding to the highest levels of the name hierarchy that distinguish clusters from each other. The resulting clusters are referred to herein as being “minimally-labeled”. Thus, cluster component (objects) are involved in creating names.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman, Bolnick, and Gargi as all three inventions are

related to grouping objects on a display. Adding the disclosure of Gargi provides the benefit of uniquely identifying objects within a group or groups.

Edelman also fails to disclose:

- *an item presentation display component which presents to the user at least a portion of said plurality of groups wherein said portion of said plurality of groups are presented along with at least a portion of said one or more group titles that indicate at least one of said one or more group characteristics.*

However, Bolnick discloses such a limitation (see Fig. 1; → discloses claim limitation including group titles).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman and Bolnick as both inventions relate to layout and grouping items on a display. Adding the disclosure of Bolnick provides the benefit of the grouping and display to be performed automatically and according to rules.

In regard to dependent Claims 2 and 5, Edelman discloses:

- *one or more of the filtered items has an associated visual representation, which may be presented to the user (Figs. 5-8; → depict items as icons, the icons portraying what sort of files they are).*

Claim 5 relates similar subject matter to that of Claim 2 and is rejected along the same rationale.

In regard to dependent Claim 6 (and similarly dependent Claims 22, and 36),

Edelman discloses:

- *said selected filter chooses said filtered items by selecting items having one or more desired characteristics (see Abstract; all items not matching a particular characteristic are filtered out)*

10. Claims 3-4, 7-19, 21, 23-32, 35, and 37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Edelman in view of Bolnick, and in further view of Gargi, and in further view of Engst ("iPhoto 2 for Mac OS X: Visual Quickstart Guide", Copyright 04/21/2003, Peachpit Press).

In regard to dependent Claims 3-4, 21 and 35, Edelman fails to explicitly disclose:

- *one or more of the filtered items are digital images.*

However, Engst discloses a display screen that displays users digital images, which are typically photographs (Pgs 1-3). Claims 4, and 21 relate similar subject matter to that of Claim 3 and are rejected along the same rationale.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman and Engst as both inventions relate to organizing and displaying objects on a screen. Adding the disclosure of Engst provides the benefit of a convenient way to organize digital images on a computer.

In regard to dependent Claims 7-14, 23-25 and 37, Edelman fails to disclose:

- *said selected filter chooses the filtered items by selecting items having an associated date and/or time within a desired interval of time.*

However, Engst teaches that date/time information can be added into a title; and the content of titles are searchable (Pgs. 4-6). The dates/times that are input can be searched. Matches are then displayed accordingly (alphabetically, numerically increasing/decreasing order).

Claims 8-14, and 23-25 relate similar subject matter to that of Claim 7 and are rejected along the same rationale.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman and Engst as both inventions relate to organizing and displaying objects on a screen. Adding the disclosure of Engst provides the benefit of organizing and displaying digital images on a computer based on specified characteristics (metadata).

In regard to dependent Claims 15-16, 27-28 and 38, Edelman fails to explicitly disclose:

- *said selected filter chooses said filtered items by selecting items stored within a desired file folder.*

However, Engst discloses albums, which are individual folders that act to group photographs with similar attributes (e.g., subject matter, rolls, etc) (Pgs. 7-9 show various albums (folders)).

Claims 16, and 27-28 relate similar subject matter to that of Claim 15 and are rejected along the same rationale.

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It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman and Engst as both inventions relate to organizing and displaying objects on a screen. Adding the disclosure of Engst provides the benefit of organizing and displaying digital images on a computer by albums.

In regard to dependent Claim 17-19, 29-31 and 39, Edelman fails to disclose:

- *said selected filter chooses said filtered items by selecting items associated with one or more desired keywords.*

However, Engst discloses searching (filtering) photos according to keywords that are assigned to them (Pg. 10-12).

Claims 18-19 relate similar subject matter to that of Claim 17 and are rejected along the same rationale.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman and Engst as both inventions relate to organizing and displaying objects on a screen. Adding the disclosure of Engst provides the benefit of organizing and displaying digital images on a computer by similar keywords.

In regard to dependent Claim 26, Edelman fails to explicitly disclose:

- *said default grouping utilizes one or more gaps in time to group the filtered digital images.*

However, Engst discloses the concept of a film roll, which are groupings of photographs taken/loaded over the same time interval. Multiple rolls are displayed separately where gaps in time would exist thereby separating/grouping the rolls by time/date (Pgs. 10-12).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the disclosures of Edelman and Engst as both inventions relate to organizing and displaying objects on a screen. Adding the disclosure of Engst provides the benefit of organizing and displaying digital images on a computer by temporal gaps.

In regard to dependent Claim 32, Edelman discloses:

- *the one or more group characteristics are subsets of the desired characteristic in that the filtering system is provided with a flexible interface by using object-oriented programming techniques and providing filtering objects organized in a filtering framework containing the filter objects. New filter objects can inherit function from existing filter objects and customized for a particular requirement (Col. 1, lines 48-52). Thus, filtering objects can be arranged and filtered hierarchically whereby characteristics (objects) may have parent (superset) or children (subsets) characteristics (objects). Thus, when filtering takes place, filtering objects would be grouped according the hierarchy.*

Response to Arguments

11. Applicants arguments are substantially directed to the affidavit filed with this amendment. Since, in the Examiner's opinion, the Affidavit is ineffective to overcome the effective filing date of the Gargi reference. Thus, the previous rejections stand.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

13. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Blackwell whose telephone number is 571-272-4089. The examiner can normally be reached on 8-5 M-F.

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15. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doug Hutton can be reached on 571-272-4137. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

James H. Blackwell
08/30/2007

/Doug Hutton/
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